

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q76440

Lieven TRAPPENIERS, et al.

Application No.: 10/616,980

Group Art Unit: 2155

Confirmation No.: 2865

Examiner: Shawki Saif ISMAIL

Filed: July 11, 2003

For: METHOD, COMPUTER SOFTWARE PRODUCTS, CLIENT TERMINAL, NETWORK ELEMENT AND NETWORK FOR EFFICIENT USE OF NETWORK RESOURCES BY JUST-IN-TIME MODULATION OF QUALITY OF SERVICE BASED ON SERVICE USAGE AND USER BEHAVIOR

**RESPONSE TO NON-COMPLIANT APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

**MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Non-Compliant Appeal Brief, and supplementary to the Appeal Brief filed on February 4, 2008, in accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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**I. STATUS OF CLAIMS**

Claims 1-12 are all of the pending claims in the present application, and are the subject of this appeal.

Claims 1-12 stand rejected under 35 U.S.C. § 102(b) as allegedly being unpatentable over Spell et al. (U.S. Patent No. 6,208,640).

All of the claims pending in the present application are set forth in their entirety in the Claims Appendix below.

## **II. ARGUMENT**

Supplemental to the Appeal Brief filed on February 4, 2008, Appellant has identified the claims on Appeal in the Status of Claims section.

Appellant respectfully requests that the members of the Board consider the remarks presented in the Appeal Brief submitted on February 4, 2008, and find each of the Appealed claims allowable as defining subject matter that is patentable over the cited art of record.

This Appeal Brief is being filed via the USPTO Electronic Filing System (EFS). Appellant herewith petitions the Director of the USPTO to extend the time for filing this Appeal Brief for an appropriate length of time if necessary.

Appellant does not believe any fee is due under 37 C.F.R. §41.37(a) and 37 U.S.C. § 1.17(c), however the USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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Date: March 28, 2008